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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,150	02/11/2004	Ashutosh Vyas	26530.94	3076
27683	7590	06/26/2008		
HAYNES AND BOONE, LLP				
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EXAMINER				
PANNALA, SATHYANARAYA R				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/776,150

Applicant(s)

VYAS ET AL.

Examiner

Sathyannarayan Pannala

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 10-14, 18-21 and 23-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 10-14, 18-21 and 23-25 is/are rejected.
- 7) ☐ Claim(s) 4-9, 15-17, 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's Pre-Brief Appeal conference request filed on 2/18/2008. In the Pre-Brief Appeal conference, conferees decided to reopen the prosecution. Therefore, the finality of the previous Office Action has been withdrawn. In this non-final Office Action, claims 1-25 are pending.

Claim Objections

2. Claims 1-11 are objected under 35 U.S.C. § 101, because none of the claims are directed to statutory subject matter. Independent claim 1 deal with simple mathematical abstract ideas and can be achieved with a **paper and pencil**. A process that merely manipulates an abstract idea or performs a purely mathematical algorithm is nonstatutory despite the fact that it might inherently have some usefulness. In *Sarkar*, 588 F.2d at 1335, 200 USPQ at 139. See recent court case, *In-Re Comiskey*, _____, Fed. Cir., 2007 _____ decided 9/20/2007. (see MPEP 2106(IV)(B)(2)(b)(ii)). In this case, claims 1-11 have to be amended as "computer implemented method" in place of "method" to overcome the objection.

Specification

3. The summary of the invention is not included in the specification. The Background of the invention and Brief summary of the invention must in separate section. A summary is required that is clearly indicative of the invention to which the

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claims are directed. See MPEP §§ 608.01(d).

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 101

4. 35 U.S.C. § 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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5. Claims 12-19 are rejected under 35 U.S.C. § 101, because none of the claims are directed to software per se. Independent claim 1 is claiming a computer software per se and functional descriptive material consisting of data structures and computer programs, which impart functionality when employed as a computer component. As such, the claims are not limited to statutory subject matter and are therefore non-statutory. See Diehr, 450 U.S. at 185-86, 209 USPQ at 8.

6. Claims 20-25 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific or substantial asserted utility or a well established utility.

The disclosure does not support the phrase "computer readable medium."

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 20- 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed,

had possession of the claimed invention. The phrase "computer readable medium" is not disclosed in the specification.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 1-3, 10-14, 18-21 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harsham et al. (US Patent 6,041,347) hereinafter Harsham, in view of Nguyen (USPA Pub. 2003/0172145 A1) hereinafter Nguyen and further in view of Pham et al. (US Patent 7,143,288) hereinafter Pham.

11. As per independent claims 1, 12 and 20, Harsham teaches a centralized computer network management system that simultaneously configures and monitors in a computer network. The network administrator allowed to describe each network device, computer or groups of network devices and computers can be associated with one or more rules which define configuration parameters (col. 1, lines 48-57). Harsham teaches the claimed, if the list is not empty, creating from the list a set of mapped independent rule blocks (col. 4, lines 25-28). Harsham teaches the claimed, for each block in the set, attempting to determine a position for the new access rule (Fig. 4, col. 5, lines 64-66). Harsham teaches the claimed, removing from the set those blocks for which a position cannot be determined and merging the blocks in the set to form a new independent rule block and inserting the new access rule therein (Fig. 7A-C, col. 7, lines 57-58, col. 8, lines 19-20). Harsham does not explicitly teach creating a new independent block if the list is empty. However, Nguyen teaches the claimed, if the list is empty, creating a new independent rule block and inserting the new access rule (page 15, paragraph [0434]). Nguyen also teaches the claimed, applying the access rules in the list to enforce policies and permissions to control access to various network resources (page 20, paragraph [0508]). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combine the teachings of the cited references because Nguyen's teachings would have allowed Harsham's method to provide all types of providers must position themselves for growth and agility to handle increasing numbers of subscribers, additional services, and workloads that are more challenging (page 3, paragraph [0030]).

Harsham and Nguyen do not teach explicitly merging access rules. However, Pham teaches the claimed, merging the blocks in the set to form a new independent rule block and inserting the new access rule (Fig. 2, col. 6, lines 31-33). Thus, it would have been obvious to one of ordinary skill in the data processing art at the time of the invention, to have combine the teachings of the cited references because Pham's teachings would have allowed Harsham's method to provide a mechanisms to secure persistent data that are ultimately reliable and cooperatively manageable (col. 3, lines 4-6).

12. As per dependent claims 2, 13 and 21, Harsham teaches the claimed, creating from the list a set of mapped independent rule blocks comprises selecting all blocks in the list having at least one rule that is not disjoint with the new access rule (Fig. 7B, col. 7, lines 59-61).

13. As per dependent claims 3 and 14, Harsham teaches the claimed, attempting to determine a position for the new access rule comprises, comparing each existing rule in the rule block to the new access rule and if all existing rules have been compared against the new access rule and no determination has been made, determining a position for the new access rule that is at the end of the block (Fig. 7A, col. 7, lines 55-58).

14. As per dependent claims 10, 18 and 24, Harsham teaches the claimed, merging the blocks in the set to form a new independent rule block and inserting the new access rule therein comprises: placing all rules from every block in the set which are positioned ahead of the new access rule in front of the new access rule in the new block and placing all rules from every block in the set which are positioned after the new access rule behind the new access rule in the new block (Fig. 2, col. 4, lines 33-35).

15. As per dependent claims 11, 19 and 25, Harsham teaches the claimed, removing an existing rule, wherein the removing includes: searching for the existing rule to be removed based on an identification number associated with the existing rule and removing the rule (Fig. 7A, col. 7, lines 58-59).

16. As per dependent claim 23, Harsham teaches the claimed, determining which of the new access and existing rules has priority is based at least partly on user determined criteria (Fig. 4, col. 5, lines 64-66).

Allowable Subject Matter

17. Claims 4-9, 15-17 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Additionally, Applicant must

overcome rejection under 35 U.S.C. 112 1st and 2nd paragraphs and 35 U.S.C. 101 and any other objections listed in this Office Action.

Response to Arguments

18. Applicant's arguments filed on 2/18/2008 with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sathyanarayan Pannala whose telephone number is (571) 272-4115. The examiner can normally be reached on 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Rones can be reached on (571) 272-4085. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sathyanarayan Pannala/
Primary Examiner

srp
June 27, 2008